

The Washington City Council met in regular session on Monday, January 9, 2006 at 4:30 p.m. in the Council Chambers at the Municipal Building. Present were: Judy Jennette, Mayor; Darwin Woolard, Mayor Pro tem; Mickey Gahagan, Councilman; Ed Gibson, Councilman; Richard Brooks, Councilman; Archie Jennings, Councilman; James C. Smith, City Manager; Fred Holscher, City Attorney; and Rita A. Thompson, City Clerk.

Also present were: Carol Williams, Finance Director; Allen Lewis, Public Works Director; Bobby Roberson; Planning Director; Keith Hardt, Electric Director; Julie Hicks, Library Director; Philip Mobley, Parks & Recreation Director; Jimmy Davis, Fire Chief; Susan Hodges, Human Resources Director; Steve Tanner, DWOV Director; Joe Stringer, Police Chief; Lynn Lewis, Tourism Director; and Mike Voss, of the Washington Daily News.

Mayor Jennette called the meeting to order, and Councilman Gibson delivered the invocation.

### **APPROVAL/AMENDMENTS TO AGENDA**

James C. Smith, City Manager, requested that a Resolution regarding Somerset Subdivision be added as VI.B.10. and Update on New Fire Station as VI.B. 11, moving Closed Session - Personnel as VI.B. 12.

On motion of Councilman Gibson, seconded by Mayor Pro tem Woolard, Council unanimously approved the Agenda, as amended.

### **CONSENT AGENDA**

Mayor Pro tem Woolard asked if the budget ordinance amendment on the Airport, page 38 in agenda book, would be a loan? Mr. Smith stated that it is intended that it be a loan and would have five years to pay it back.

On motion of Mayor Pro tem Woolard, seconded by Councilman Gahagan, Council unanimously approved the Consent Agenda, as follows:

- A. Authorize - Manager to Execute Change Order Numbers 2 & 3 for the Water and Sewer Extensions in the Industrial Park, Phases 2 & 3 and Adopt a Budget Ordinance Amendment for the Capital Project Fund (\$14,005)

### **AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2005-2006**

**BE IT ORDAINED by the City Council of the City of Washington, North Carolina:**

Section 1. That account number 68-90-8000-0400, Engineering, portion of the Water/Sewer Page to Leggett Road Capital Project Fund Phase II appropriations budget be decreased in the amount of \$1,075 to provide additional appropriations for change order #2.

Section 2. That account number 68-90-8000-4501, Sewer Line Construction portion of the Water/Sewer Page to Leggett Road Capital Project Fund Phase II appropriations budget be increased in the amount of \$1,075 to provide funds for change order for sewer tap.

Section 3. That account number 68-90-8010-9900, Contingency, portion of the Water & Sewer Line Extension Capital Project Fund Phase III appropriations budget be decreased in the amount of \$12,930 to provide additional appropriations for change order #2 and #3.

Section 4. That account number 68-90-8010-4500, Water Line Construction portion of the Water & Sewer Line Extension Capital Project Fund Phase III appropriations budget be increased

in the amount of \$10,780 to provide funds for change order #3.

Section 5. That account number 68-90-8010-4501, Sewer Line Construction, portion of the Water & Sewer Line Extension Capital Project Fund Phase III appropriations budget be increased in the amount of \$2,150 to provide funds for change order #2.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. This ordinance shall become effective upon its adoption.

Adopted this the 9<sup>th</sup> day of January, 2006.

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

B. Adopt - Budget Ordinance Amendment for City Council in General Fund (\$5,175)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2005-2006**

**BE IT ORDAINED by the City Council of the City of Washington, North Carolina:**

Section 1. That account number 10-00-4400-5701, Miscellaneous Expenses, Miscellaneous Non-Departmental portion of the General Fund appropriations budget be decreased in the amount of \$5,175 to provide additional appropriations for City Council Department.

Section 2. That account number 10-00-4110-0400, Professional Services, City Council portion of the General Fund appropriations budget be increased in the amount of \$5,175 to provide funds for City code book and Cable TV franchise negotiation.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

C. Approve - Reallocation of Funds in Recreation Department for Master Plan (\$3,000)

- D. Adopt - Budget Ordinance Amendment for the Close Out of Wastewater Treatment Capital Project Fund (\$258,795)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2005-2006**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the Wastewater Treatment Capital Project Fund be increased in the amount \$47,403 in the account Liquidated Damages Phase I, account number 79-90-3350-0000.

Section 2. That the Estimated Revenues in the Wastewater Treatment Capital Project Fund be increased in the amount of \$5,549 in the account Earned Interest, account number 79-90-3831-0000.

Section 3. That account number 79-90-8221-9900, Contingency, portion of the Wastewater Treatment Capital Project Fund Phase I, appropriations budget be decreased in the amount of \$92,784, to provide funds for Transfer to Sewer Fund.

Section 4. That account number 79-90-8221-0403, Inspection, portion of the Wastewater Treatment Capital Project Fund Phase I appropriations budget be decreased in the amount of \$12,458 to provide funds for Transfer to Sewer Fund.

Section 5. That account number 79-90-8221-4500, Construction, portion of the Wastewater Treatment Capital Project Fund Phase I appropriations budget be decreased in the amount of \$7,719 to provide funds for Transfer to Sewer Fund.

Section 6. That account number 79-90-8221-9700, Transfer to Sewer Fund, portion of the Wastewater Treatment Capital Project Fund Phase I appropriations budget be increased in the amount of \$165,913 to provide funds for close out of fund.

Section 7. That account number 79-90-8222-9900, Contingency, portion of the Wastewater Treatment Capital Project Fund Phase II appropriations budget be decreased in the amount of \$92,882 to provide additional appropriations for Transfer to Sewer Fund.

Section 8. That account number 79-90-8222-9700, Transfer to Sewer Fund portion of the Wastewater Treatment Capital Project Fund Phase II appropriations budget be increased in the amount of \$92,882 to provide funds for close out of fund.

Section 9. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 10. This ordinance shall become effective upon its adoption.

Adopted this the 9<sup>th</sup> day of January, 2006.

s/Judy Jennette  
**JUDY JENNETTE**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

- E. Adopt - Resolution Finding no conflict of interest with regard to the Lease by and

between Rivertowne Properties, LLC and the Washington Tourism Development Authority

**RESOLUTION**

**WHEREAS**, The North Carolina General Statutes § 14-234 entitled “Director of Public Trust contracted for his own benefit; participation in business transaction involving public funds; exemptions” has numerous exemptions for public officials; and

**WHEREAS**, in order to fully comply with said Statute the following facts are herein setforth:

- 1) A Lease was entered into by and between Rivertowne Properties, LLC and the Washington Tourism Developmental authority effective August 1, 2005;
- 2) That said Lease is a two-year with an annual rental of \$8,700.00;
- 3) The Councilman N. Archibal Jennings III is a member of Rivertowne Properties, LLC;
- 4) Said Lease was entered into prior to the election of Councilman Jennings; and

**WHEREAS**, the City Council of the City of Washington has requested an opinion from the City Attorney’s office to whether or not said Lease results in a conflict for Councilman Jennings; and

**WHEREAS**, the City Council has been advised by the City Attorney that in his opinion North Carolina General Statue § 14-234 excepts the Lease to Rivertowne Properties, LLC from its provisions and that said Lease was entered into prior to Councilman Jennings having been elected.

**NOW THEREFORE**, the City Council of the City of Washington that this Resolution is passed pursuant to North Carolina General Statute § 14-234 to acknowledge the circumstances surrounding the Lease to Rivertowne Properties, LLC and to find no conflict of interest exists.

**Adopted this 9<sup>th</sup> day of January, 2006.**

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

ATTEST

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

s/Frederick N. Holscher  
**FREDERICK N. HOLSCHER**  
**CITY ATTORNEY**

- F. Approve - Submission of Transportation Improvement Projects Requests to NC DOT-Aviation for Warren Field Airport for the period of 2007-2011
- G. Adopt - Budget Ordinance Amendment for Warren Field Airport (\$25,000)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2005-2006**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the Airport Fund be increased in the amount of

\$25,000 in the account Fund Balance Appropriated, account number 37-90-3391-9910.

Section 2. That account number 37-90-4530-7400, Capital Outlay, portion of the Airport Fund appropriations budget be increased in the amount of \$25,000 to provide funds for hangar door replacement.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC  
CITY CLERK**

H. Approve - Lease for Bob Lay at Warren Field Airport

#### **APPROVAL OF MINUTES**

On motion of Councilman Gahagan, seconded by Mayor Pro tem Woolard, Council unanimously approved the minutes of December 12, 2005, as submitted.

#### **NEW PROCEDURE FOR COUNCIL MEETING PROCEDURES**

Mayor Jennette stated that Mr. Smith has been using the procedure that the City Clerk calls out the agenda items. She stated that we will try that procedure tonight.

#### **TOM THOMPSON, ECONOMIC DEVELOPMENT DIRECTOR - TO DISCUSS INDEMNIFYING FLANDERS FILTERS AND AUTHORIZING PERFORMANCE AGREEMENT AND LEGALLY BINDING COMMITMENT**

Tom Thompson, Beaufort County Economic Development Director, welcomed the new City Manager, James C. Smith. Mr. Thompson stated he is here tonight to talk about a policy that has been used before with other companies, an indemnification agreement. The water pressure in the Industrial Park is fairly low, the Industrial Park is higher than Highway 264. At the end of two hours, they end up with about 28 pounds of pressure. The previous City Manager, Public Works and Paul Spruill, County Manager, had worked out some engineering to boost the pressure with the County water system. To do that, they need approximately \$700,000 to tie the County water system into the City water system. Unless grants had been obtained, it would have to be paid for with cash up-front. These two grants were obtained (100% grants) due to our Tier 1 status, one being from the Rural Center and the other from CDBG handled by the Department of Commerce. He stated that the Performance Agreement required by the Rural Center will be for \$374,000 and Flanders Filters Corporation will sign a document stating they will supply 38 more jobs. These 38 jobs have to be completed in 18 months after the completion date of the utility project. He stated that Flanders has said they would add 200 jobs, so the 38 jobs is the minimum they have to guarantee to get the grant. Essentially this is the same as the CDBG grant, except we get \$19,000 a job and only have to guarantee 18 jobs. These two overlap so the total we are asking Flanders to sign for is 38 to get the full \$700,000.

Mr. Thompson stated that the indemnification agreement states that if Flanders

Corporation, for any reason, does not achieve the 38 jobs, the City and the County have to pay back on a prorata share (55% County, 45% City) on each job they don't achieve. The indemnification agreements are well used. You're getting 100% grant money. If Flanders does hire 38 employees within this period of time, the City and County are free of any obligations and so is Flanders. There is some risk, but they should continue to grow and prosper. The other option is to go ahead and pay the money right now up-front to get the water pressure problem resolved.

Mayor Jennette asked what is the deadline for the application? Mr. Thompson stated that he does not know that there is a deadline, but they are competitive, and urged Council to go ahead with this. Mayor Jennette asked when do you start counting jobs? Mr. Thompson stated he really can't answer that, but he thinks we use the December 7<sup>th</sup>, 2006, and then 18 months after the completion, December 7, 2007. He was not sure of the exact dates though.

Councilman Jennings asked if the indemnification agreement was a qualification for the grant? Mr. Thompson answered. . . not for the grant agency, but the company is the one asking why should they have to guarantee to pay the grant back when its your water system. Councilman Jennings stated that the indemnification is in partnership with the County? Mr. Thompson answered yes, 55% County, 45% City. Councilman Jennings asked if the County had approved it? Mr. Thompson stated he will meet with them in an hour. Councilman Jennings asked what would happened if the County did not vote for it and the City did? Mr. Thompson stated that it wouldn't happen.

Mr. Thompson stated that the rural Center Grant is for \$374,000, and the CDBG grant is for \$336,000 and requires a 5% match of the \$37,400. Councilman Brooks asked if that was all the City would have to come up with? Thompson answered yes.

On motion of Councilman Gahagan, seconded by Councilman Brooks, Council unanimously indemnified Flanders Filters and authorized the Mayor to execute the Performance and Legally Binding Commitment.

## **EXHIBIT D**

### **PERFORMANCE AGREEMENT**

This Performance Agreement (the "Agreement") is entered into this 10<sup>th</sup> day of January, 2006 by and among **Flanders Corporation** (hereinafter referred to as the "Business" and the **City of Washington and Beaufort County** (hereinafter referred to as the "Governmental Units"), who hereby agree as follows:

#### **WITNESSETH:**

**WHEREAS,** Governmental Unit will construct public infrastructure for the benefit of the Business in order to stimulate and support economic development in the local geographic area; and

**WHEREAS,** a portion of such support has come from the Rural Economic Development Center, Inc. (the "Center") pursuant to its mission to stimulate and support economic development in the rural areas of North Carolina; and

**WHEREAS,** the Center requires the Business to enter into this Performance Agreement as a condition of providing the support to the Governmental Unit for this project;

**NOW, THEREFORE,** in consideration of the mutual promises and other valuable considerations as shall be set out herein, the parties hereto do mutually agree to the following terms and conditions.

1.     **Program.**     The parties have agreed to develop, perform and complete the work set out in Exhibit A (hereinafter referred to as the “Project”) and said Project being that work described in the proposal entitled [**Water System Improvements to serve Flanders Filters**] as approved by the Center.
2.     **Support.**     Governmental Unit hereby agrees to use \$ 374,000 to fund the Project. The parties acknowledge that this amount will be repayable only in the event the Business fails to achieve certain job creation goals described in paragraph 3. below. In the event such job creation goals are not achieved, the City of Washington and Beaufort County agree to pay at a pro rata share of 45%/55% respectively to the Center, the amount set forth in paragraph 5 below.
3.     **Job Creation.** The Business hereby agrees to create 38 number of Jobs (defined below) within one year from the date of substantial completion of the Project (the “Substantial Completion Date”). The business hereby acknowledges that the funding by the Center and the Governmental Unit is predicated upon this covenant by the Business, that failure to achieve this objective will constitute a material default under the terms of this Agreement, but that such failure shall not require the Business to repay any portion of the support provided by the Governmental Unit pursuant to the provisions of paragraph 5 below. For purposes of this Agreement, a “Job” shall mean a full-time job (consisting of at least 35 hours per week of employment and eligibility for all benefits generally available for full-time employees of the Business) with the Business, at a wage at least equal to minimum wage, and located in North Carolina.
4.     **Verification of Jobs.** The Business’s baseline job numbers will be verified at the substantial Completion Date. Once the specified number of minimum jobs has been obtained, the Business shall notify the Governmental Unit so that the Governmental Unit and the Center can verify satisfaction of the conditions. The Business Job numbers shall be verified again at the date that is 18 months following the Substantial Completion Date. The Business shall provide to the Governmental Unit and the Center, or their respective designees, full and complete access to all records of the Business that would be reasonably necessary to verify the number and types of jobs created, and the wages paid to employees. Failure to provide such access upon reasonable request shall constitute a default under the terms of this Agreement.
5.     **Repayment.** If the Business fails to create the required number of Jobs by the first anniversary of the Substantial Completion Date, or if the Business has created such Jobs by such date, but has not maintained that total number of Jobs until the date that is 18 months following the Substantial Completion Date, the City of Washington and Beaufort County, at a pro rata share of 45%/55%, shall repay to the Center, an amount equal to the product of (i) \$ 10,000 and (ii) the number of Jobs required to be created under paragraph 3. above, minus the lesser of (A) the number of Jobs in existence on the date that is 12 months following the Substantial Completion Date and (B) the number of Jobs in existence on the date that is 18 months following the substantial Completion Date. If a requirement exists to repay any sums hereunder, the City of Washington and Beaufort County shall pay such amount directly to the Center. All such amounts due hereunder shall be due upon demand by the Center. Upon default in such payment, remedies, and the Governmental Units hereby agree to pay the reasonable attorney’s fees for the Center, not exceeding a sum of 15% of the outstanding balance owing hereunder, plus all other reasonable expenses incurred by such party

in exercising any of the its rights and remedies upon such defaults.

6. **Records.** The Business agrees to maintain full, accurate and verifiable records, supporting documents, and all other pertinent data for this Project to enable the verification of the requirements contained in this Agreement. All such financial records, supporting documents, and other pertinent records related to the Project shall be maintained for a period of at least 3 years from the Substantial Completion Date. In the event any such records are audited, all such records shall be retained beyond the 3-year period until any and all audit findings have been resolved. The Business agrees to make available to the Governmental Unit, the Center, or their designated representatives, all of its records which relate to the Project and the creation of Jobs, and agree to allow the Governmental Unit or the Center or their representatives to audit, examine, and copy any and all data, documents, proceedings, records and notes of activity related in any way to the Project or such Job creation. Access to these records shall be allowed upon request at any time during normal business hours, and as often as the Governmental Unit or the Center or said representatives may deem necessary.
7. **Representations and Warranties.** The Business hereby represents and warrants that:
  - a. It is duly organized and existing, and, if a corporation, is duly incorporated under the laws of the state of North Carolina.
  - b. The execution and delivery of this Agreement has been duly authorized by all necessary action, and are not in contravention of law nor in contravention of any certificate of authority, bylaws, or other applicable organizational documents of such party, nor the provisions of any indenture, agreement, or undertaking to which it is a party or by which it is bound.
  - c. There is no action, suit, proceeding, or investigation at law or in equity for any court, public board, or body pending, or to such party's knowledge, threatened against or affecting it, that could or might adversely affect the Project, the creation of the Jobs, or any of the transactions contemplated by the Agreement, or the validity or enforceability of this Agreement or such party's ability to discharge its obligations under this Agreement. If it is subsequently found that an act, suit, proceeding or investigation did or could threaten the development of the Project or the creation of such Jobs, such party shall be liable to the Governmental Unit and to the Center for repayment of the entire amount described in Paragraph 5 above.
  - d. Such party shall at all times preserve its legal existence, except that it may merge or consolidate with or into or sell all or substantially all of its assets to any entity that expressly undertakes, assumes for itself, and agrees in writing to be bound by all of the obligations and undertakings of such party contained in this Agreement. If such party so merges, consolidates, or sells it assets without such an undertaking being provided, such party agrees to repay to the Governmental Unit and the Center the full amount of sums advanced under this Agreement.
  - e. No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Agreement by such party or the performance of any of its obligations hereunder, or all such requisite governmental consents or approvals have been obtained. Such party shall provide the Governmental Unit or the Center with evidence of the existence of any such necessary consents or approvals at the time of the execution of this Agreement.
  - f. Such party is solvent.
8. **Special Provisions and Conditions.**
  1. **Nondiscrimination.** The Business agrees not to discriminate by reason of age, race, religion, colors, sex, national origin, or handicap related to the activities of the Agreement.



- s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**LEGALLY BINDING COMMITMENT**

STATE OF NORTH CAROLINA  
CITY OF WASHINGTON  
FLANDERS CORPORATION

(APPLICANT)  
(COMPANY)

**PUBLIC FACILITIES AGREEMENT**

**THIS AGREEMENT** (the “Agreement”) is entered into as of the 10<sup>th</sup> day of January, 2006, by and between Flanders, a corporation authorized to transact business within the State of North Carolina (hereinafter referred to as the “Corporation”) and the City of Washington, North Carolina (hereinafter referred to as the “Applicant”). This Agreement will not become effective until all conditions placed upon the Applicant’s funding approval are satisfied and funds are released by the Department of Commerce (hereinafter “DOC”) pursuant to a Community Development Block Grant (hereinafter “CDBG”) with the Applicant.

**WITNESSETH**

**WHEREAS**, the Applicant anticipates receiving a Community Development Block Grant from the Department of Commerce in the amount of \$336,600 to be used primarily to benefit low to moderate-income persons by financing the economic development project to be undertaken by the Applicant and the Corporation (the “Project”).

**NOW, THEREFORE**, in consideration of the promised and the mutual covenants and promises set forth herein, the Corporation and the Applicant hereby agree as follows:

**I. AGREED ACTIONS**

- A. The Corporation shall execute its responsibilities as identified in Corporation’s narrative exhibits and the employments profiles contained in the Applicant’s CDBG application to DOC. Those exhibits and commitments are incorporated herein by reference, as if set out in full. The Corporation agrees to build and operate the Project in a timely manner. Briefly, those documents describe the renovation of a 102,500 square foot manufacturing facility (the “Facility”) on a 20 acre site located in/adjacent to the City of Washington in Beaufort County, North Carolina (the “County”). The Corporation currently has continuing operations in the County that employ 528 people and commit to employ 18 additional people by December 7, 2007 (date). The Corporation can request DOC verify the creation of the additional jobs stated above prior to December y, 2007, (date) and release the Corporation from further job creation documentation. In addition, the Corporation agrees that if it fails to create and maintain 18 jobs prior to December 7, 2007 (date) or verified by DOC, the City of Washington and Beaufort County at a pro rata share of 45%/55% respectively will reimburse DOC \$ 19,000.00 for each job not created. All parties agree that if at the end of the grant agreement the number of prior low to moderate-income people employed at the Facility falls below fifty one percent (51%) of the total employment at the Facility, the entire grant amount will be due and payable to DOC by the City of Washington and Beaufort County. The City of Washington’s and Beaufort County’s liability under this Agreement shall not exceed the dollar amount of the grant made by the Department of Commerce. If unforeseen calamity, and Act of God or financial disaster is the cause of action under this section of the Agreement, the Corporation and the Applicant may appeal to DOC for an extraordinary modification of this responsibility. Such modification shall be at the discretion of the Secretary of the Department of Commerce. The requirement that persons of low to moderate income must hold a minimum of fifty-one percent (51%) of all jobs created cannot be waived.
- B. Each party shall keep and maintain books, records, and other documents relating directly to the receipt and disbursement of grant funds and fulfillment of this Agreement.

- C. Each party agrees that any duly authorized representative of the Applicant, DOC, the United States Department of Housing and Urban Development, and the Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all of the books, records, and other documents relating to the grant and the fulfillment of the Agreement for a period of five (5) years following the completion of all close-out procedures respecting the CDBG funds, and the final settlement and conclusion of all issues arising out of the CDBG funds.
- D. Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of the CDBG Grant Agreement between the Applicant and DOC and agree that any conflict between the provisions, requirements, duties, or obligations of this Agreement and the CDBG Grant Agreement shall be resolved in favor of the CDBG Grant Agreement.

## **II. ENFORCEMENT**

- A. IF at the end of the approved project period the Corporation has failed to create the full number of job positions and low to moderate-income job positions presented in Agreed Actions Section I of this Agreement, or to incur the full level of private investment committed to in its grant application, as provided above, then the Corporation will not have to pay to the Applicant any amount calculated in the manner set out in Section I-A of this Agreement.
- B. This Agreement constitutes a legally enforceable contract and shall be governed and construed in accordance with the laws of the State of North Carolina.

## **III. PUBLIC RECORDS LAW**

The Corporation acknowledges that it has read and understands North Carolina's laws regarding the treatment of public records and confidential information, and their application to economic development projects, including without limitation, those provisions set forth in Exhibit A.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed under Seal as of the date first above written.

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

## **REPORT - ECONOMIC DEVELOPMENT COMMISSION**

Mr. Thompson stated that they have been busy in December, announcing the Flanders Project, Ethanol Project in Aurora, and the condominium project in Belhaven. He stated they are working with a large company now in the woods product industry on an outlying site. He stated they have four clients looking at the Quick Start Building, ranging from \$10 million to \$100 million in size. The biggest one is the hottest and will hear from them in March. The Egret Boat Plant is under construction now and needs water and sewer. Another client from New Jersey will be locating in the back side of the park and make green houses, employing approximately 20 people. They are getting a lot of inquiries concerning the Airport and should soon start some

serious planning out there. The Miracle Mile will be making some substantial announcement on waterfront developments, so that committee needs to be reactivated.

Councilman Gibson asked about what is happening at the Airport? Mr. Thompson stated there are at least six people who would love to have a hangar out there and thinks the City or EDC needs to build some. He stated there is an opportunity for an import/export business out there, building some manufacturing plants and distribution centers.

#### **REPORT - TOURISM DEVELOPMENT AUTHORITY**

Mayor Jennette stated that Lynn Lewis has developed a new website. This gives the Tourism Development Authority the opportunity to advertise. Letters are to be sent to businesses to see if they would be interested in advertising on the website. She stated it is very attractive and an easy menu to maneuver. Also, the Historic site booklet has been a good gift item. She also mentioned the Duck Show scheduled for February 10 - 12<sup>th</sup> which is a huge attraction for Washington.

#### **REPORT - HUMAN RELATIONS COUNCIL**

Mayor Jennette stated the Human Relations Council had a breakfast at Blackbeard's last week and talked about their goals and objectives and upcoming events. A meeting is scheduled for tomorrow night.

#### **REPORT - DOWNTOWN WASHINGTON ON THE WATERFRONT**

Mayor Jennette stated she did not attend the last meeting and asked Kent Fulton, President, to address the Council. Mr. Fulton stated that DWOW has completed their work plans, economic restructuring, promotion and design and they have been approved by the board. Two projects the City needs to be aware of is (1) a Saturday Market beginning in the spring and (2) in water boat show planned for the spring of 2007. This project is intended to be an annual project and a very large event. He stated that Washington and DWOW are fortunate to have secured the services of an international event promoter to help put the boat show together. Mr. Fulton stated that a new city member needs to be designated to the DWOW board. The by-laws call for one Council member and one from administration (historically the City Manager). He stated they are preparing to present the W.K. Dickson revitalization strategy to all members of the Planning Board and City Council. On January 25, 26, and 27th is the N. C Main Street Conference in Salisbury, N. C. and reviewed the topics. There are some complimentary tickets. He asked that Council check with Steve Tanner to get signed up. DWOW has successfully completed its financial audit and copies are available.

#### **APPOINTMENT - DOWNTOWN WASHINGTON ON THE WATERFRONT - TO FILL THE UNEXPIRED TERM OF JUDY JENNETTE, TERM TO EXPIRE JUNE 30, 2006**

On motion of Mayor Pro tem Woolard, seconded by Councilman Gahagan, Council unanimously appointed Councilman Archie Jennings to the Downtown on the Waterfront (DWOW) to fill the unexpired term of Judy Jennette, term to expire June 30, 2006.

#### **FIREMEN'S RELIEF - TO FILL EXPIRED TERM OF MIKE ALLIGOOD, TERM TO EXPIRE ON JANUARY 31, 2006**

On motion of Councilman Gahagan, seconded by Councilman Jennings, Council unanimously reappointed Mike Alligood to the Firemen's Relief, term to expire January 31, 2008.

#### **MID EAST COMMISSION - TO APPOINT A PERSON TO FILL THE EXPIRED TERM OF DOUG MERCER**

On motion of Councilman Gibson, seconded by Councilman Jennings, Council

unanimously reappointed Doug Mercer as the City's representative to the Mideast Commission, term to expire December, 2007, pending his agreement to serve.

### **PRESENTATION AND DISCUSSION - RETAIL ELECTRIC RATE**

Councilman Gibson asked if this is the same information presented at the December 12<sup>th</sup> meeting? Keith Hardt, Electric Director, answered yes, it has not changed. Councilman Jennings stated this is a serious issue and the more times it is explained, the better. Mr. Hardt reviewed the same slides as was presented at the December 12<sup>th</sup> meeting.

Mr. Hardt presented three options to the Council:

#### **Option A**

- Implement no retail rate increase or increase rates to offset only a portion of the wholesale increase
- Result
  - Draw down on reserves
  - Additional expenses with no increase
    - \$2.5 million per year, each year hereafter - 10% of the average budgeted annual Electric Fund Revenue
    - \$1.2 million through 30 June 2006 - 5% of the Current Fiscal Year Budget

#### **Option B**

- Implement rate increase equally across all customer rate classes to offset fully the wholesale increase
- **Result**
  - Increase of 8.7% across all customer rate classes
  - Cost/revenue balance is maintained as a basis of the retail cost of service to each customer class
  - Potential non-competitive position with industrial recruitment

#### **Option C**

- Implement rate increase equally across customer rate classes, excluding industrial, to offset fully the wholesale increase
- **Result**
  - Increase of 10.4% across affected customer rate classes
  - Cost/revenue balance is skewed as a basis of the retail cost of service to each customer class
  - Non-industrial customers would shoulder the rate increase to shield the rate increase impact on industrial customers
  - competitive position with industrial recruitment is maintained

Councilman Jennings asked if energy comes back down, will there be some reduction in wholesale costs? Mr. Hardt answered yes, the rates will be lower as well. Mr. Hardt stated that the increase in wholesale power rates every month is \$250,000. Councilman Gahagan stated that we can't ignore a 10% increase in our costs. Councilman Gahagan asked if we are still competitive in our industrial rates. Mr. Hardt answered yes, even with this increase.

Councilman Jennings stated it would like to reconvene after study is done to make sure we are spreading this load the way we should between industrial and residential. Mr. Hardt stated that he has done that. He stated he has looked at every rate class to see what it produced. Every rate class would be paying 8.7% more. The rate might be different but the percentage they pay based on their current bill is 8.7%.

Councilman Gahagan stated we should go ahead with it today.

After discussions, it was Council consensus to go with Option B, with 8.7% across the board effective February 1, 2006.

**AUTHORIZE - MAYOR TO SIGN CONTRACT FOR RECREATION MASTER PLAN**

Philip Mobley, Parks & Recreation Director, stated that four firms submitted proposals, with three firms interviewing: Holland and Assoc. of Wilmington/Washington, Marsha Wyly of Williamston and HSMM (Hayes, Mattern & Mattern Inc.) Of Charlotte/Raleigh. After the interview process, the review committee is recommending HSSM to accomplish the Master Plan Study for the City. Mr. Mobley stated he is impressed with the size of the firm and they can accomplish the study in 11 months. Councilman Gibson questioned what the firm would be doing and didn't see how they can save the City money. He stated they would be coming in fillings out a questionnaire and the City would have to foot the hotel bill, etc.

Mr. Mobley stated, with all respect, that they would be filling out the "right" questionnaire. He stated it is not all about a cost savings, but more of where we are going. Councilman Gahagan stated this is the way we need to get where we need to go. Mayor Pro tem Woolard stated we need a new set of eyes. Councilman Jennings stated that the City Manager wants to be in on the conversations early. Mr. Smith stated that what we need more attention to a number of issues, the kinds of things that are useful. We need to know a lot more about participation within the City, non-resident marginal costs (a number of cost elements we would like to have). There is the possibility of sharing facilities, selling seasonal passes, etc.

Mayor Jennette stated that we don't need a boiler plate thing. She suggested Mr. Smith and Philip meet with the consultant before a contract is signed.

It was Council consensus to bring this to the Planning Session on February 2 for more discussion.

**DISCUSS - OFFER TO SELL LOT #6A, LOCATED AT THE REAR OF HODGES REALTY AT 156 WATER STREET UNDER THE UPSET BID PROCEDURE, IN ACCORDANCE WITH GENERAL STATUTES 160A-269**

Mr. Roberson stated that a Resolution has been prepared that begins the upset bid process. (He asked that the reference to Mac Hodges be changed to J. M. Hodges, III). He referred to the portion of the property, Lot #6A which belonged to the City that dated back to the latter part of the '60's. A check has been received from Mr. Hodges in the total amount and a Resolution needs to be adopted.

Mr. Roberson stated that the property appraised at \$550, appraisal fee was \$750 and the survey was added, making a total of \$1,914.00. Councilman Gibson asked what Mr. Hodges was going to use the property for? Mr. Roberson stated that he understands he wants to add on to his existing business. Mr. Roberson thinks he is going with a mixed use and create efficiency apartments on the second floor level.

On motion of Councilman Gibson, seconded by Councilman Jennings, Council unanimously adopted the Resolution to begin the upset bid procedure to dispose of Lot 6A at the rear of the building located at 156 Water Street, in compliance with G. S. 160A-269.

**Resolution Authorizing Upset Bid Process**

**WHEREAS**, the City of Washington owns certain property located in the rear of the building located at 156 Water Street, shown as lot number 6A on a map prepared by Rivers and Associates being drawing Z-2315; and

**WHEREAS**, North Carolina General Statutes 160A-269 permits the city to sell property by upset bid, after receipt of an offer for the property; and

**WHEREAS**, the City has received an offer to purchase the property described above, in the amount of \$1,914.00, submitted by Mac Hodges of Hodges Realty; and

**WHEREAS**, Mac Hodges has paid the required five percent (5%) deposit on his offer;

**THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHINGTON RESOLVES THAT:**

1. The City Council authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The city clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the city clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the city clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the city clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The city will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The city will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that:  
the City Council must approve the final high offer before the sale is closed, which will do within 30 days after the final upset bid period has passed, and  
the buyer must pay with cash at the time of closing.
8. The city reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate city officials are authorized to execute the instruments necessary to convey the property to Mac Hodges.

ADOPTED this the 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**DISCUSS - OFFER TO SELL PROPERTY LOCATED ALONG THE SIDE AND REAR  
OF THE BUILDING LOCATED AT 156 WATER STREET AND BEING ½ OF A  
CLOSED ALLEY, WHICH RUNS PARALLEL TO WATER STREET UNDER THE  
UPSET BID PROCEDURE, IN ACCORDANCE WITH GENERAL STATUTES 160A-269**

Mr. Roberson stated that we closed this portion of the alley and half of it reverted back to the City and the other half reverted to the property owners, what we are selling is the area that is marked Area B. That portion of the property was valued at \$2,375.00. The price of \$2,303.00 represents the appraisal plus the survey of the property. He will come back at the February meeting and the portion that belongs to the City will be sold.

On motion of Councilman Gahagan, seconded by Mayor Pro tem Woolard, Council unanimously adopted the Resolution to begin the upset bid procedure to dispose of the property located along the side and rear of the building located at 156 Water Street and being one-half of a closed alley, which runs parallel to Water street, in compliance with G. S. 160A-269.

**Resolution Authorizing Upset Bid Process**

**WHEREAS**, the City of Washington owns certain property located in the rear of the building located along the side and rear of the building at 156 Water Street and being ½ of a closed alley, which runs parallel to Water Street and is shown on a map prepared by Rivers and Associates being drawing number Z-2324; and

**WHEREAS**, North Carolina General Statutes 160A-269 permits the city to sell property by upset bid, after receipt of an offer for the property; and

**WHEREAS**, the City has received an offer to purchase the property described above, in the amount of \$2,303.00, submitted by Mac Hodges of Hodges Realty; and

**WHEREAS**, Mac Hodges has paid the required five percent (5%) deposit on his offer;

**THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHINGTON RESOLVES  
THAT:**

1. The City Council authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The city clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the city clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the city clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the city clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passes without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The city will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The city will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that:



the City Council must approve the final high offer before the sale is closed, which will do within 30 days after the final upset bid period has passed, and the buyer must pay with cash at the time of closing.

8. The city reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate city officials are authorized to execute the instruments necessary to convey the property to Mac Hodges.

ADOPTED this 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**DISCUSS - ON THE PROPOSED WASHINGTON REDEVELOPMENT PLAN FOR  
DOWNTOWN REVITALIZATION PROJECT**

Mr. John Tate, a member of the Planning Board, stated that the Plan has to be recommended by the Planning Board to the City Council. The boundaries can be expanded to include a larger area. The final plan will be presented to the Planning Board at their February meeting.

Mayor Jennette stated there are some good things in here that we might want to apply to all the businesses downtown, not just the ones in that small area. Mr. Roberson stated that in the original rough draft, they did talk to consultants about this and the area can be expanded. They would have to resurvey the portions that they want the boundary expanded in. Mayor Jennette also questioned treating one group different than others. Councilman Jennings stated that if we had another grant for another area, we would have to do this same work. Mr. Roberson stated that is correct. Mr. Roberson stated that it would be a good time to expand the area now.

**DISCUSS - THE THOROUGHFARE PLAN STUDY TO REVIEW THE US 17  
HIGHWAY BY-PASS AND PROPOSED BRICK KILN ROAD (SR 1303)**

Mr. Tate stated that the Planning Board is concerned about the US 17 Bypass and its impact on existing local streets. In addition they are concerned about the minor thoroughfare proposed for Brick Kiln Road. The Planning Board is recommending that the City Council contact the N.C. Department of Transportation about an update to include these two areas of concern.

Mayor Jennette asked if this is being added in the Comprehensive Plan? Mr. Roberson stated that there are some concerns about Highway 17 and the interchanges and the Brick Kiln Road expansion, so it is being considered in the comprehensive Plan as well. Any amendment to the Thoroughfare Plan would have to go through the City to NC DOT.

Councilman Jennings stated when he was getting briefed by various departments, they talked about a highway plan or a plan about a ten year outlook and asked if that is what this is? Mr. Roberson answered yes, the Plan was adopted in 2000, but Highway 17 was not finalized at that time. Councilman Jennings asked would it be appropriate to expand the scope of this to make sure we don't get behind on our highway plan in terms of growth of the City? He gave Greenville

as an example. He suggested we get NC DOT's suggestion on an overall plan. Mr. Roberson stated that can be included in the RFP.

Mayor Jennette asked Mr. Roberson contact NC DOT between now and the Planning Session and bring a recommendation to the Planning Session.

**ADOPT - ORDINANCE TO AMEND CHAPTER 4, BUILDING AND CONSTRUCTION,  
ARTICLE 1, IN GENERAL, SECTION 4-5, FIRE DISTRICTS-PRIMARY OF THE CITY  
CODE TO REESTABLISH AND DEFINE THE FIRE LIMITS OF THE PRIMARY FIRE  
DISTRICT**

Jimmy Davis, Fire Chief, stated that the purpose of this action item is to revisit the Primary Fire District. The Primary Fire District is required by G. S. 160A-435. Primary Fire District are established in areas where there are several adjoining buildings, where there are no intervening district, basically the downtown area. Our current fire district extends down to Main and Bridge (houses were deleted in the 1980's). Chief Davis stated he is proposing some clear established lines, being an area from the river on Stewart Parkway, coming up Gladden Street to Third, down Third to Bonner and down Bonner back to the river. He stated he would like to come back later and revisit the Secondary Fire Districts. He stated it needs cleaning up because of development reasons and it makes a difference on construction.

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council unanimously adopted an ordinance to amend Chapter 4, Building and Construction, Article I, In General, Section 4-5, Fire Districts-Primary of the City Code.

**AN ORDINANCE TO AMEND CHAPTER 4,  
BUILDINGS AND CONSTRUCTION OF THE  
WASHINGTON CITY CODE**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina:

Section 1: That Sec. 4-5 Fire Districts-Primary "Beginning at the Pamlico River on Bridge Street..." be deleted and replaced with the following:

Beginning at the Pamlico River on Stewart Parkway extending northward along the eastward side of Gladden Street to the southward side of West Third Street, thence eastward down Third Street to be westward side of Bonner Street, thence southward down Bonner Street to the Pamlico River.

Section 2: All ordinances in conflict with the ordinance are hereby repealed.

Section 3: This ordinance shall become effective January 9, 2006

This the 9<sup>th</sup> day of January 2006.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

Council convened for a break and reconvened at 6:00 p.m.

**PUBLIC HEARING - TO CHANGE THE ZONING CLASSIFICATION ON PROPERTY  
LOCATED AT THE INTERSECTION OF WEST 15<sup>TH</sup> STREET AND PIERCE STREET  
EXT FROM R9S (RESIDENTIAL) TO O & L (OFFICE & INSTITUTIONAL)**

John Tate, a member of the Planning Board, stated that William Thorpe, Agent for the property came forward at the Planning Board meeting and introduced David Hodges from Rocky Mount, a real estate agent, who made the presentation on behalf of the owners. The request was to rezone 45.90 acres of property from R9S to O&I. The O&I serves as a transition between residential and commercial development. The existing Old K-Mart site is currently zoned Commercial and this classification allows for single family, two family and multi-family development, along with personal services establishments. During the public hearing, Mr. Will Cochran came forward and stated he was not against the zoning change but asked the board to consider the existing family homes already existing on the adjacent property. The Planning Board voted unanimously to grant the rezoning. The Board assured Mr. Cochran that before any development would happen, a subdivision plat would have to come back before the Planning Board and they would require consideration to be made of those residential streets.

Mayor Jennette stated this is a public hearing.

There was no one present to speak.

Mayor Jennette closed the public hearing.

Councilman Jennings asked if this zoning change effects the zoning airport encroachments? Mr. Tate stated that there will be special height restrictions on this property that will apply.

Mayor Pro tem Woolard pointed out that it has been our policy to have the owner present at the meeting.

Mr. Smith stated that this only addresses the use and the subdivision addresses the layout might it be appropriate to incorporate the Airport height restrictions as a condition of approving the rezoning? Mr. Roberson stated this is not a conditional use zoning reclassification, but before the developer moves forward, we would have to send a notice to him that the first step is to coordinate the height of the building with the Airport. This will be taken care of at the time of development.

On motion of Councilman Gibson, seconded by Councilman Brooks, Council accepted the recommendation of the Planning Board and unanimously rezoned the property located at the intersection West 15<sup>th</sup> Street and Pierce Street from R9S (Residential) to O&I (Office & Institutional).

**PUBLIC HEARING - TO CHANGE THE ZONING CLASSIFICATION ON PROPERTY  
LOCATED AT 229 - 249 CLARKS NECK ROAD FROM I1 (HEAVY INDUSTRIAL) TO  
R15S (RESIDENTIAL). THE PROPERTY IS LOCATED ACROSS THE ROAD FROM  
STANADYNE AUTOMOTIVE**

Mr. Tate stated that the Planning Board recommended the rezoning from I1 (Heavy Industrial) to R15S (Residential) for Mr. Joseph Rhem by unanimous vote.

Councilman Gibson asked if he could tell whether it was to prevent further industrialization or serious thought to residential? Mr. Tate stated the owner is here tonight and there are structures already there and thought it was already zoned residential property.

Mayor Jennette stated this is a public hearing.

Mr. Joseph Rhem stated that he had previously had this land rezoned to agriculture. He

bought some property from Stanadyne and evidently that is how it got rezoned industrial. He stated he would like to put some duplexes or single family dwellings on it.

Mayor Jennette closed the public hearing.

On motion of Councilman Jennette, seconded by Councilman Gibson, Council unanimously accepted the recommendation from the Planning Board and rezoned the property located at 229-249 Clark Neck Road from I1 (Heavy Industrial) to R15S (Residential) located across the road from Stanadyne.

**PUBLIC HEARING - TO AMEND CHAPTER 17 SUBDIVISION AND CHAPTER 27 ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF WASHINGTON**

Mr. Tate stated he is here to answer any questions on the revisions in the ordinance.

Mayor Jennette asked how much the Planning Board discussed this. Mr. Tate state they reviewed it pretty rigorously. Changes were explained, some of the changes recommended were already being done but were not codified. The discussion that was a little involved as on the "presales" section and Mr. Smith had suggested that it be tabled until another time.

Mr. Smith stated that all these changes were adopted by Legislature, so they are in affect. He stated that Section 3 concerned him...developers in order to raise capital for a project they will presell unapproved property. The positive side is that legislature wanted to codify the conditions under which presales take place. The downside for the City is if someone sells you a potential piece of land, then brings it in to the Planning staff, City Council, etc., it puts a tremendous amount of pressure on the City not to change anything. Since the Legislature is allowing this to be done, and in several states, it is prohibited. There is a provision in the statute that says it has to issue a notice. He stated he thinks the City ought to write the notice, require that notice clearly lays out that this project may change, and have a place where the buyer signs that they received the notice. The notice should be drafted by us and require that notice be included with the presales documentation.

Mayor Jennette stated we will hold the public hearing and vote on it at the Planning Session. If the hearing is held tonight, there will be no further notice required for the paper.

Mayor Jennette stated this is public hearing.

There was no one present to speak.

Mayor Jennette closed the public hearing.

On motion of Mayor Pro tem Woolard, seconded by Councilman Gibson, Council agreed to discuss this item at the Planning Session for action.

**PUBLIC HEARING - TO CONSIDER A GRANT APPLICATION UNDER THE N. C. RURAL ECONOMIC DEVELOPMENT CENTER IN THE AMOUNT OF \$400,000 UNDER THEIR CATEGORY OF "BUILDING REUSE AND RESTORATION" FOR VACANT STRUCTURES**

Bobby Roberson, Planning Director, stated that this is a new program and the actual amount is \$400,000. The key component is that the City is a partner in this application and does require a 2.5% match of the total grant amount, which would be \$10,000. The developers are willing to put up the \$10,000 cash match on behalf of the City to move this program forward.

Mr. Craig Newton, representing Friedman-Ravenwood, LLC, owner and developer of the property at 1 Harding Square in Washington. There is a grant opportunity through the North Carolina Rural Center related to vacant building reuse. They are requesting City Council approval

to proceed with the application process as a partner with Friedman-Ravenwood, LLC. Information provided is a brief summary of what is included in the agenda package.

Mr. Newton stated that the North Carolina Rural Center is offering \$2.5 million dollars in 2006, with the maximum grant being \$400,000, based on \$10,000 per job created. The applicant must be a local government and the building must have been vacant for six months (building has been vacant since 1999). Key dates in the schedule for the application is on February 21<sup>st</sup>, the N.C. Rural Center board will review the grant applications. In order to qualify for that review, the application must be submitted by January 21<sup>st</sup>. Friedman-Ravenwood, LLC will prepare the application on behalf of their partnership with input from city staff and others as necessary. Mr. Newton showed photographs of the existing building.

Mr. Newton stated they are proposing to add three floors to the existing two story office building, create a 40 room Inn on the waterfront, a ground floor restaurant with a roof top patio and restaurant, with a budget between \$4.5 and \$5.5 million dollars. Mr. Newton pointed out that the DWOV study that was released last fall recommended phase improvements for the downtown Washington area. Phase I was to be completed within the first five years and included the central activity node and the central activity node is centered on Harding Square at this building. DWOV study further recommended that building renovations within the central activity node be considered one of the most important projects of Phase 1. He showed an illustration from the DWOV Study which showed this building. The concept drawing was prepared by their architect and superimposed over a photograph of the building. This demonstrates how high and how long the building would be, relative to what it is today. On the right of the floor plan is the proposed 1500 square foot restaurant, to the bottom left is approximately 1000 square feet of conference space, and the rest being restrooms, reception area and offices for hotel staff. He showed a typical guest room floor (10 on each floor) on four floors, for a total of 40 rooms. The roof top plan is approximately one-fourth of the total square footage of the roof top. The enclosed area would contain restrooms, stair cases, elevators, kitchen, storage and a bar for the roof top. The lower half is the seating area which would not be enclosed, and on the right is an open air patio for guest seating. Another photograph showed the Washington skyline taken from Bridge Street which illustrated the scale of the building relative to other downtown buildings.

Mr. Newton stated they met with the Historic Preservation Commission subcommittee and received positive feedback and will eventually go through the formal proceedings.

Councilman Jennings asked about the parking for the facility. Mr. Newton stated that there is no extra property for parking. He stated that historic zoning does not required them to provide parking, but they are looking for sites to provide parking. They have not identified anything specific for parking yet. Councilman Jennings asked last month about additional property that may be acquired. Mr. Newton stated that would like to approach the City later in the development phase once they have a more specific plan. No design work has been done yet, but feels they will do that. Mr. Newton stated if they can work that out in the future, it will increase the value of the project.

Councilman Jennings stated that he likes the flexibility of the plan. He stated that height will be one of their main challenges. If eight was a problem, could the project be scaled down and it still be a viable project? Mr. Newton answered yes, but the grant is based on the number of jobs created, the further you scale back, the fewer jobs are created and the less grant funds they are eligible for. Mr. Newton stated that it is \$10,000 for **full-time** jobs, so if full-time jobs are scaled back, grant money will be lost. Part-time jobs are considered but they don't grant you money for that. They are looking at 40 full-time jobs and 30 part time jobs.

Councilman Jennings asked how they came about this grant. Mr. Newton stated that he was told about it from Steve Tanner, DWOV Director about nine or ten months ago. It is a new program and have awarded 17 grants in 2005 and this is the second year of funding. Councilman Jennings asked about the clawback provision, we don't create the number of jobs we anticipate, who pays the money back? Mr. Newton stated the City would have to pay the money back. The

money goes to the developer as a loan and if they don't produce the jobs, they have to give the money back to the City via the loan. If jobs are created, the City forgives the loan.

Mr. Newton stated he has spoken with the Director of this program many times, and he has been to Washington and looked at the building and he is excited about it.

Councilman Gibson asked if he is concerned about the conference rooms being used there as there are other conference rooms proposed in new projects. Mr. Newton stated that the space in this hotel can be used for other purposes and is flexible. Councilman Gahagan pointed out that the old Louise Hotel will not have conference rooms and there is no requirement that the Moss Property have conference rooms.

Mr. Smith asked about setback relative to roof lines, architectural features...? Mr. Newton stated it is a black slate as far as design goes and he is not prepared to address materials or anything architectural at this point.

Mr. Roberson commented that because this is a state grant, you have to do 106 Compliance. If he does get the grant, the first threshold he would have to meet is the State Historic Preservation Office so they would have the first review. Councilman Jennings asked about the admin fees and their offer to pay the \$10,000 so we are off the hook for the admin? Mr. Roberson answered yes, that is correct.

Mr. Newton stated that as far as the name of the Inn, they are using the address of the building at this point.

Mayor Jennette stated this is a public hearing and asked for comments from the audience.

Mr. Gary Tomasulo stated that the downtown merchants are in favor of the Inn and would be "heads in beds." He stated that they will be getting a lot of extra taxes and this is important for the downtown area.

Mr. Kent Fulton, representing DWOW, stated that their mission is to rehabilitate where necessary unproductive and under utilized buildings, foster the reuse of vacant spaces and empty buildings in the downtown district. With respect to the grant application, DWOW believes that in the next one to three years, there will be a growing number of such grant applications. If increased future grant administration becomes burdensome to the City of Washington, DWOW has Steve Tanner, an individual experienced in grant administration and DWOW would want to reduce the burden on the government. Their ulterior motive is as a revenue source. DWOW supports Friedman-Ravenwood, LLC for the City of Washington to partner with them in the Rural Center building reuse and restoration grant application for 1 Harding Square. DWOW reserve the right to come in and provide input if and when this project proceeds.

Lynn Lewis, Tourism Development Authority Director, stated that the TDA is excited to have rooms in downtown Washington. They have a lot of visitors who would like to stay on the water, and they are in support of this project.

Mayor Jennette closed the public hearing.

Mayor Jennette thanked Mr. Newton for his presentation.

On motion of Councilman Gibson, seconded by Mayor Pro tem Woolard, Council unanimously authorized the Mayor to sign the grant application in the amount of \$400,000, provided the developers furnish the City of Washington a check in the amount of \$10,000 for the City's cash match, to be submitted to the N. C. Rural Economic Development Center under the grant "Building Reuse and Restoration" category for the renovation of the building located at 1 Harding Square (Old McQuay Building).

**RECEIVE - PUBLIC INPUT ON FY 2006-2007 CITY BUDGET**

Mayor Jennette opened the public input session.

Gary Tomasulo stated that DWOW has been funded \$55,000 for the past two years. He stated that it is time to cut the purse strings. He has not seen any money that they earned the last two years to support the salary of a Director. In these times, to give that kind of money, and seeing no money coming out of it, it is time to say "you're on your own." He stated he is not suggesting to get rid of DWOW, but to cut the purse strings.

Dot Moate commented on the following things for Council to consider during the budget session:

- (1) enforcement officer to enforce the laws, particularly relating to zoning violations, building and construction, permits (especially violations)
- (2) yard sales as potential income (places having them every week)
- (3) enforcement of vendor permits
- (4) hire grant administrator
- (5) contract maintenance under Recreation (grass cutting, etc)
- (6) Enforce parking requirements - should be constant
- (7) Stop utilities advertising
- (8) Re-evaluation of work force - need for the performance of each individual and particularly the wages some of the employees are getting. It is difficult for an employee on minimum wage with a family of three or four to live. The City needs to look at this to get qualified people for the future.
- (9) Re-evaluate city-owned property and sell it and put it back on the tax roll.
- (10) She also had a complaint about contractors who don't back their work up. She had problems with a roofer not fixing her leaks and a friend who had the same problem with another roofer. Contractors need to be responsible.

Mayor Jennette closed the public input session.

**APPROVE - PROCLAMATION FOR STEWART RUMLEY DAY**

On motion of Councilman Gahagan, seconded by Councilman Gibson, Council unanimously proclaimed January, 12, 2006 as the L. Stewart Rumley Day in the City of Washington.

Proclamation  
From the Office  
Of the Mayor Of  
Washington, North Carolina

**WHEREAS**, L. Stewart Rumley was first elected Mayor of Washington in October 1995, and;

**WHEREAS**, Washington's citizens elected him to serve five consecutive terms as Mayor, and;

**WHEREAS**, he served as Interim City Manager from March through December 2005, and;

**WHEREAS**, he provided service to North Carolina's municipalities as President and member of the Board of Directors of the North Carolina League of Municipalities, and;

**WHEREAS**, he provided additional service to North Carolina's municipalities by serving on committees and leading workshops at the North Carolina League of Municipalities' annual meetings, and;

**WHEREAS**, he provided additional service to North Carolina's municipalities by serving on the NCLM Risk Management Services Board of Trustees, and;

**WHEREAS**, he provided service to North Carolina's public power communities through service on the NC Eastern Municipal Power Agency's Board of Commissioners, and;

**WHEREAS**, he participated on the State of North Carolina Legislative Research Commission on Municipalities Annexation and Incorporation in 1998, and;

**WHEREAS**, he worked tirelessly to keep issues and concerns of the North Carolina's municipalities in the forefront of the state and national legislative arena, and;

**WHEREAS**, he provided thirty years of service to Our Country as an aviator in the US Coast Guard, and;

**WHEREAS**, he retired at the rank of Captain from the US Coast Guard in July 1995 and returned to make his home in his native Washington, and;

**WHEREAS**, he has achieved forty years of distinguished public services to our City, our State and our Nation;

**THEREFORE, BE IT RESOLVED** that Washington City Council proclaims Thursday the 12<sup>th</sup> of January, 2006, as L. Stewart Rumley Day.

This the 9<sup>th</sup> day of January, 2006.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**ADOPT - BUDGET ORDINANCE AMENDMENT FOR ECONOMIC DEVELOPMENT  
(\$90,000)**

Carol Williams, Finance Director, stated that Tom Thompson, Economic Development Director, requested Council to give an Incentive Grant to Flanders Filters at the last meeting. As of December, they had hired 45 people. She has set aside \$90,000 for the Incentive Grant.

Mayor Jennette asked if would be reasonable to ask Mr. Thompson to give us a status report. Councilman Gahagan stated he would make that a part of his report to Council. Councilman Jennings stated we should do that, the hardest things about Economic Development is somehow quantifying the results so we could at least beware of the number of jobs. Councilman Gahagan stated that the plan is to get the money back through taxes.



On motion of Councilman Gahagan, seconded by Mayor Pro tem Woolard, Council unanimously adopted a budget ordinance amendment in the amount of \$90,000 for Flanders Filters tax incentive grant in the Economic Development Department of the General Fund.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2005-2006**

**BE IT ORDAINED by the City Council of the City of Washington, North Carolina:**

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$90,000 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

Section 2. That account number 10-00-4650-4508, Flanders Filters Tax Incentive Grant, portion of the Economic Development appropriations budget be increased in the amount of \$90,000 to provide funds for City's share of incentive grant.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**APPROVE - PERSONNEL FOR NEW SIGNATURE CARDS FOR THE CITY'S  
CHECKING ACCOUNT AND PAYROLL ACCOUNT AT BANK OF AMERICA**

Mr. Smith stated that now one signature is required for the checking account and payroll account.

On motion of Councilman Gahagan, seconded by Councilman Gibson, Council waived the requirements of dual signatures on the City's central depository account and authorized the Finance Director and City Manager to sign checks or drafts from the City's central depository account and the Finance Director and City Manager to sign check from the City's impressed payroll account.

Motion was amended by Councilman Gahagan and seconded by Councilman Gahagan to read that Council authorized the Finance Director and City Manager to sign checks or drafts from the City's central depository account and the Finance Director and City Manager to sign checks from the City's impressed payroll account, and the City Manager recommends a senior staff member as an alternate signatory.

**ADOPT RESOLUTION - SOMERSET SUBDIVISION**

Chief Davis stated he was approached a few weeks ago by Chris Furlough, developer of Somerset, and he requested to be allowed to burn some of the land clearing material. The City has an ordinance that does not allow burning inside the city limits. Chief Davis stated he feels comfortable allowing the burning if Mr. Furlough meets the air quality requirements, N. C. Forestry Service requirements, and get the site inspected by the Fire Marshall. This would be monitored. A Resolution has been drafted to allow Mr. Furlough to do this. This has been approved by these agencies.

Councilman Jennings commented on the wind blowing to the south and getting calls about smoke blowing through Smallwood. Chief Davis stated that we have already received a phone call and the first fire has not been lit yet. Chief Davis stated that prevailing winds would be looked at before a fire could be lit, however, wind changes can happen after the fire is lit.

Mr. Smith stated there is no good alternative space for storage grind up, but chips are marketable or people could go and get them. In the meantime, we are probably stuck with burning the material.

On motion of Councilman Gahagan, seconded by Mayor Pro tem Woolard, Council unanimously adopted the Resolution allowing the burning of land clearing material from the development of Somerset Subdivision.

**RESOLUTION SOMERSET SUBDIVISION**

**WHEREAS**, Somerset Subdivision located generally on Old Racetrack Road (extended) has requested permission to burn residual material from their clearing and grubbing process; and

**WHEREAS**, Washington City Code Section 7-78 prohibits open burning of combustible material within the City Limits; and

**WHEREAS**, the volume of material exceeds the capacity of the City of Washington to provide for alternative disposition.

**WHEREAS**, Somerset Subdivision has received preliminary approval from the City of Washington Planning Board; and

**WHEREAS**, The City of Washington Fire Marshal finds no fire hazard presented by the proposed burning due to the separation of the materials from any adjacent combustible material; and

**WHEREAS**, the NC Division of Air Quality and the NC Division of Forestry do not object to the proposed burning;

**NOW THEREFORE BE IT RESOLVED:**

- 1) Notwithstanding the provisions of Washington City Code section 7-78 the owner of Somerset Subdivision is hereby granted permission for a period of 90 days from the effective date hereof to burn residual materials from his clearing and grubbing of land within said subdivision.
- 2) All permitted burning shall be under the direction of the City of Washington Fire Marshal.
- 3) This Resolution shall take effect upon passage.

Adopted this the 9<sup>th</sup> day of January, 2006

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

### **UPDATE ON SECOND FIRE STATION**

Chief Davis stated that he receive a 45 page report on the soil boring at the proposed second Fire Station. The document passed out today from Stewart, Cooper & Newell, Architects, summarizes what the report says. Basically, it is saying that the site is too soft to withstand the construction of a building. Three different options were listed in the letter (1) pre-loaded (2) geopiers, and (3) driven wooden piles. The architectural firm is in the process of researching the cost of each option. Chief Davis is proposing that the firm meet with the City Council to receive the information after it is compiled. Chief Davis stated that Doug Causey, of USDA, told him he would like to see the City move to another site but it is up to the City.

Chief Davis stated that this site was given to the City by the Brileys. Chief Davis stated that if you move further down on Page Road, you will run into the same problem. Secondly, the further we get off Hwy. 264, the worst it is about gaining access in an emergency situation. He recommended that if they have to move, we need to move out on the highway, not further back into the Industrial Park.

Council discussed that with the Fire Station going there, will help get funding to build the road. Chief Davis pointed out too, that the USDA loan was contingent that the road be put there. If we stay at the current site, someone has to cut the road in.

Chief Davis stated the ideal property would be in the neighborhood of Creekside Drive which is on Hwy 264 going up to Camfil Farr. He stated there are some options for property out there, but it was not pursued a lot at the time because this land was free. He stated we need to keep this Fire Station on track as far as the USDA loan.

### **COMMENTS FROM THE PUBLIC**

Steve Tanner, Downtown Washington on the Waterfront (DWOW) Director, stated that the Rural Center has two other grant programs we can take advantage of. One is a “sister program” to the \$400,000 development that Craig Newton talked about earlier. Mr. Tanner talked about another grant where the building has to be empty, \$25,000 allow you to pay for architectural services, engineering services, and legal fees. This is a grant he would like to pursue, DWOW, along with other groups raising the match of \$5,000 for the predevelopment fund. The second one is a new program called the “Step Program”, a demonstration site program where you put together your economic strategy. Also, you can get up to \$200,000 with no match. It’s a flexible program based on a two phase thing where you submit your application which identifies your strategy for pulling off your development plan at the end.

Mayor Jennette stated that Council needs to get a copy of the application. January 23 is the deadline. The workshops were December 14<sup>th</sup> to let you know what the process was.

Mr. Holscher stated that authorization can be given subject to it being acceptable and make sure Council receives a copy. Councilman Jennings stated that if Council had a problem with it, they need time to address the problem.

Councilman Jennings asked about the Bank of American building and if we had made any

contacts about the future of the building? Mr. Tanner answered not to this date and it can be pursued, DNER had been looking for a new home. Councilman Jennings stated that when the 5013C was formed, it gave the City ability to deal with that sort of thing and the Council needs to give clear direction to DWOW to take that ball and run with it. Mr. Tanner stated they would pursue it.

Councilman Jennings asked that someone come back and report to the Council next month. That will be made a part of the DWOW report next month.

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council authorized the Mayor, subject to approval by the Mayor and Manager and to the terms and conditions of N.C. Rural Center "Step Demonstration Grant Program.

Gary Tomasulo stated that a couple of real estate agencies have been looking at the Bank of America building and they are not looking at selling it right now. Jule McKensie can give you the person in charge and he has been trying to buy the building but they have a ten year lease left on it and they are trying to write it off.

Council took a break to take pictures before going into closed session.

#### **CLOSED SESSION - PERSONNEL G.S. 143-318.11(a)(6)**

On motion of Mayor Pro tem Woolard, seconded by Councilman Gibson, Council unanimously agreed to go into closed session under G. S. 143-318.11(a)(6) Personnel.

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council agreed to come out of closed session at 8:00 p.m.

#### **CLOSING CITY HALL**

Council agreed to close City Hall at 3:30 p.m. on Thursday, January 12, 2006 for the former Mayor and Interim City Manager, L. Stewart Rumley's reception.

#### **ORDER OF AGENDA**

Mayor Jennette stated that the Order of Agenda (a request from Doug Mercer) will be discussed at the Planning Session.

#### **REPORTS FROM DEPARTMENT HEADS**

It was Council consensus to continue with Department Head reports.

#### **CONTINUE MEETING**

On motion of Mayor Pro tem Woolard, seconded by Councilman Gibson, Council unanimously continued the meeting until Thursday, February 2 at the Civic Center at 8:30 a.m.

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**Rita A. Thompson, CMC  
City Clerk**